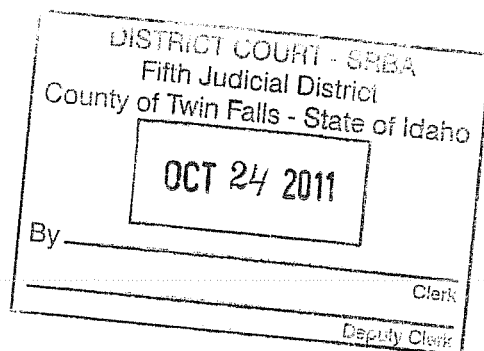


RECEIVED
OCT 27 2011
DEPARTMENT OF
WATER RESOURCES



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA	)	Subcases 75-14023, 75-14027 and 75-14029
	)	(Tutor)
	)	
Case No. 39576	)	AMENDED 2nd SPECIAL MASTER
	)	REPORT AND RECOMMENDATION
_____	)	

Findings of Fact

Water rights 75-14023 and 75-14029 were partially decreed to Lloyd and Sheryl Tutor, HC 60, Box 52E12, Round Mountain, Nevada, 89045, by former SRBA Presiding Judge John M. Melanson on October 28, 2009. Water right 75-14027 was partially decreed to the Tutors by SRBA Presiding Judge Eric J. Wildman on January 5, 2011.

The Tutors filed a *Motion to Set Aside Partial Decrees* in all three subcases on August 15, 2011, to correct errors in quantity, place of use and combined use remarks. Attached to the *Motion* as Exhibits A, B and C are three proposed partial decrees with the corrections noted.

A continued hearing on the Tutors' *Motion* was held by telephone conference on September 29, 2011. Mr. Tutor appeared *pro se*, along with Albert C. Fols; David L. Negri appeared for the United States of America, Department of Interior, Bureau of Land Management, along with Fredric W. Price; and Garrick L. Baxter appeared for IDWR, along with Suzy Cooley-Denney. The parties agreed the *Partial Decrees* should be set aside and amended as described in Exhibits A, B and C to the Tutors' *Motion* to correct the errors.

On September 30, 2011, the Special Master entered a ***2nd Special Master Report and Recommendation*** recommending the *Partial Decrees for water rights 75-14023, 75-14027 and 75-14029* be set aside and amended as described in Exhibits Am, B and C to the Tutor's *Motion*. On October 7, 2011, the Tutors wrote a letter to the Court pointing out a clerical error in the

quantity element for water right 75-14029 – .038 cfs should be .055 cfs. The attached proposed amended partial decree for water right 75-14029 corrects the error.

Conclusions of Law

The Tutors have shown good cause to have their *Motion* granted to accurately reflect their actual and historical use of the water.

Recommendation

THEREFORE, IT IS RECOMMENDED that the *Partial Decrees* for water rights 75-14023, 75-14027 and 75-14029 be set aside and amended as described in Exhibits A, B and C to the Tutor's *Motion*.

DATED October 2⁴ 2011.



TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

AMENDED

In Re SRBA)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Case No. 39576)
Water Right 75-14023

NAME AND ADDRESS: LLOYD A TUTOR
SHERYL L TUTOR
HC 60 BOX 52E12
ROUND MOUNTAIN, NV 89045

SOURCE: CARMEN CREEK TRIBUTARY: SALMON RIVER

QUANTITY: 0.038 CFS

PRIORITY DATE: 12/22/1910

POINT OF DIVERSION: T23N R22E S35 NENE Within Lemhi County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	0.038 CFS

PLACE OF USE: Irrigation Within Lemhi County
T22N R22E S03 LOT 2 (NWNE) 1.2
T23N R22E S34 SWSE 1.7
2.9 Acres Total

Right Nos. 75-14023, 75-14025, 75-14027 and 75-14029 are limited
to the irrigation of a combined total of 2.9 acres in a single
irrigation season.
Place of use does not include federal public lands.

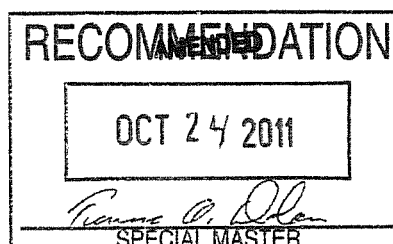
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance
with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a
final judgment and that the court has and does hereby direct that the above judgment or order shall be a final
judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

Eric J. Wildman
Presiding Judge of the
Snake River Basin Adjudication



AMENDED

PAGE 1
Oct-04-2011

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

AMENDED

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 75-14029

NAME AND ADDRESS: LLOYD A TUTOR
SHERYL L TUTOR
HC 60 BOX 52E12
ROUND MOUNTAIN, NV 89045

SOURCE: CARMEN CREEK TRIBUTARY: SALMON RIVER

QUANTITY: 0.055 CFS

PRIORITY DATE: 04/01/1915

POINT OF DIVERSION: T23N R22E S35 NENE Within Lemhi County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	0.055 CFS

PLACE OF USE: Irrigation Within Lemhi County
T22N R22E S03 LOT 2 (NWNE) 1.2
T23N R22E S34 SWSE 1.7
2.9 Acres Total

Right Nos. 75-14023, 75-14025, 75-14027 and 75-14029 are limited
to the irrigation of a combined total of 2.9 acres in a single
irrigation season.
Place of use does not include federal public lands.

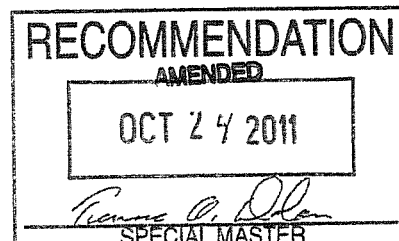
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

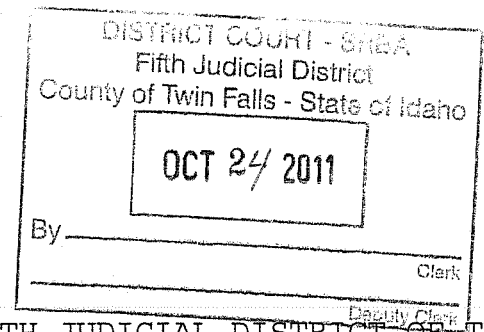
THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
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DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
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judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

Eric J. Wildman
Presiding Judge of the
Snake River Basin Adjudication





IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)
Case No. 39576)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

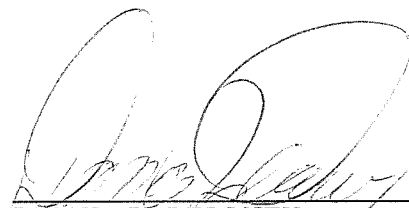
Water Right(s): 75-14023
75-14027 75-14029

On October 24, 2011, Special Master TERRENCE A. DOLAN issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s) pursuant to SRBA Administrative Order 1 (AO1), Section 13a.

Pursuant to SRBA Administrative Order 1, Section 13a, any party to the adjudication including parties to the subcase, may file a Motion to Alter or Amend on or before the 28th day of the next month.

Failure of any party in the adjudication to pursue or participate in a Motion to Alter or Amend the SPECIAL MASTER'S RECOMMENDATION shall constitute a waiver of the right to challenge it before the Presiding Judge.

DATED October 24, 2011.



DIANA R DELANEY
Deputy Clerk

DISTRICT COURT - SRBA	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
OCT 24 2011	
By _____	Clerk _____

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)
)
Case No. 39576)
_____)

CERTIFICATE OF MAILING

Water Right(s): 75-14023
75-14027 75-14029

CERTIFICATE OF MAILING

I certify that a true and correct copy of the SPECIAL MASTER'S REPORT, SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on October 24, 2011, with sufficient first-class postage prepaid to the following:

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

UNITED STATES OF AMERICA
Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

GEORGE MATEJKO
BOX 129
CARMEN, ID 83462

ROBERT M & JACQUELINE ERNEST
BOX 132
CARMEN, ID 83462

CERTIFICATE OF MAILING

PAGE 1
10/24/11

JAMES R. & ROWENA D QUINN
BOX 1473
CARMEN, ID 83462

JOHN E & RUTH C BURNS
BOX 264
CARMEN, ID 83462

RICK & LINDA RICE
BOX 285
CARMEN, ID 83462

LLOYD A & SHERYL L TUTOR
LLOYD A TUTOR
SHERYL L TUTOR
HC 60 BOX 52E12
ROUND MOUNTAIN, NV 89045

WILLIAM W CLEMENTZ
PO BOX 225
CARMEN, ID 83462

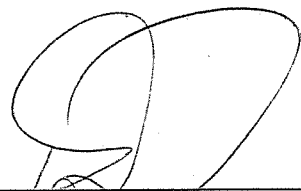
A C & LUELLA PILKERTON
PO BOX 23
CARMEN, ID 83462

JAMES EDGREN & JENNIFER BRADY
PO BOX 266
CARMEN, ID 83462

CHARLES E & MARY N HARLING
PO BOX 283
CARMEN, ID 83462

ALBERT C & ALVERA C FOLS
PO BOX 56
CARMEN, ID 83462

TRACY MASCIA
PO BOX 80
CARMEN, ID 83462



DIANA R DELANEY
Deputy Clerk